

Appln. No. 10/065,970
Docket No. GEM-0066 / 126995

REMARKS / ARGUMENTS

Status of Claims

Claims 1-31 are pending in the application. Claims 17-31 are allowed. Claims 1, 2, 6-10 and 14-16 are rejected. Claims 3-5 and 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Applicant has amended Claims 1, 9 and 10, leaving Claims 1-31 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(e)

Claims 9-10 and 14-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Doherty et al. (U.S. Patent No. 6,567,277, hereinafter Doherty).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "*arranged as in the claim.*" *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984) (emphasis added). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of

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another reference. Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended Claims 9 and 10.

Applicant has amended Claim 9 to now recite, inter alia, "...*contact surfaces integral to the housing configured to* releasably secure the portion extending from the housing to the housing."

Applicant has amended Claim 10 for consistency of language and for proper antecedent basis.

Support for the claim amendments may be found in the specification as originally filed at paragraph [0015-0016], where Applicant discloses that channel 26 is formed integral to housing 12, and that channel 26 has contact surfaces (sides) that secure cable 18 within channel 26. No new matter has been added.

Dependent claims inherit all of the limitations of the parent claim.

In contrast to the instant invention, Applicant finds Doherty to disclose a flexible member 40 that is mounted on housing 11 for securing cable 16 in a wrapped configuration between guide members 26, where flexible member 40 is a flexible strap such as an elastic band. Figure 6, column 3 lines 1-12.

In comparison with the instant invention, and in view of Doherty disclosing a flexible member 40 for securing cable 16, Applicant finds Doherty to be absent *contact surfaces integral to the housing configured to* releasably secure the portion extending from the housing to the housing, as claimed.

Absent anticipatory disclosure in Doherty of each and every element of the claimed invention arranged as in the claim, Doherty simply cannot be anticipatory.

Regarding Claim 14 Specifically

The Examiner alleges that Doherty discloses the claimed invention including wherein the cable is received in the channel in *press-fit fashion*. Paper 1109, pages 2-3 (emphasis added).

Notwithstanding the above noted amendments and remarks, Applicant respectfully submits that Doherty does not disclose the Doherty cable 16 being received

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in the Doherty channel 26 in a press-fit fashion. Rather, Applicant finds Doherty to disclose a flexible member 40 that is mounted on housing 11 for securing cable 16 in a wrapped configuration between guide members 26, where flexible member 40 is a flexible strap such as an elastic band. Figure 6, column 3 lines 1-12.

In respectful disagreement with the Examiner, Applicant submits that a flexible member used for securing a cable in *a wrapped configuration* is not a disclosure of a cable being received in a channel in *a press-fit fashion*, as claimed.

Accordingly, Applicant submits the Doherty does not disclose each and every element of the claimed invention and therefore cannot be anticipatory.

Regarding Claim 15 Specifically

The Examiner alleges that Doherty discloses the claimed invention including wherein in the cable includes a resilient material forming an outer surface of the cable, the resilient material being *compressed by a side of the channel to secure the cable within the channel*. Paper 1109, pages 2-3 (emphasis added).

Notwithstanding the above noted amendments and remarks, Applicant respectfully submits that Doherty does not disclose the Doherty cable 16 being compressed by a side of the Doherty channel 26 to secure the cable 16 within the channel 26. Rather, Applicant finds Doherty to disclose a flexible member 40 that is mounted on housing 11 for securing cable 16 in a wrapped configuration between guide members 26, where flexible member 40 is a flexible strap such as an elastic band. Figure 6, column 3 lines 1-12.

In respectful disagreement with the Examiner, Applicant submits that a flexible member used for securing a cable in *a wrapped configuration* is not a disclosure of a side of the channel being used to *compress the cable* to secure the cable within the channel, as claimed.

Accordingly, Applicant submits the Doherty does not disclose each and every element of the claimed invention and therefore cannot be anticipatory.

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Regarding Claim 16 Specifically

The Examiner alleges that Doherty discloses the claimed invention including *a detent formed on a side of the channel*, the detent *releasably retaining the cable* in the channel. Paper 1109, pages 2-3 (emphasis added).

Notwithstanding the above noted amendments and remarks, Applicant respectfully submits that Doherty does not disclose the Doherty channel 26 having a detent formed on a side thereof where the detent releasably retains the Doherty cable 16 in the channel. Rather, Applicant finds Doherty to disclose a flexible member 40 that is mounted on housing 11 for securing cable 16 in a wrapped configuration between guide members 26, where flexible member 40 is a flexible strap such as an elastic band. Figure 6, column 3 lines 1-12.

In respectful disagreement with the Examiner, Applicant submits that a flexible member used for securing a cable in *a wrapped configuration* is not a disclosure of *a detent formed on a side of the channel*, the detent *releasably retaining the cable* in the channel, as claimed.

Accordingly, Applicant submits the Doherty does not disclose each and every element of the claimed invention and therefore cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Doherty does not disclose each and every element of the claimed invention and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(e) has been traversed, and requests that the Examiner reconsider and withdraw this rejection.

Rejections Under 35 U.S.C. §103(a)

Claims 1-2 and 6-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Doherty in view of Al-Ali (US 2003/0181798, hereinafter Al-Ali).

The Examiner acknowledges that Doherty does not disclose a sensing device movable relative to the housing and a display screen disposed in the housing, and looks to Al-Ali to cure this deficiency. Paper 1109, page 3.

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Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Applicant has amended Claim 1 to now recite, *inter alia*, "...a portion of the cable being removably disposed in ***and removably secured by the channel*** for temporarily storing the cable." Support for the claim amendment may be found in the specification as originally filed at paragraphs [0015-0017]. No new matter has been added.

Dependent claims inherit all of the limitations of the parent claim.

In comparing the instant invention with the combination of Doherty and Al-Ali, and in view of the prior remarks regarding the rejections under 35 U.S.C. §102, Applicant respectfully submits that Doherty does not teach or suggest a portion of the cable being removably disposed in ***and removably secured by the channel*** for temporarily storing the cable, and that Al-Ali fails to cure this deficiency.

Applicant respectfully submits that Doherty teaches a flexible member 40 that is mounted on housing 11 for securing cable 16 in a wrapped configuration between guide members 26, where flexible member 40 is a flexible strap such as an elastic band (Figure 6, column 3 lines 1-12), and that Al-Ali teaches a physiological measurement communications adapter having a sensor module and a monitor module (Abstract and Paragraph [0025]).

In contrast to the present invention, Applicant submits that a Doherty flexible member used for securing a Doherty cable in a ***wrapped configuration*** is not a disclosure of cable being removably disposed in ***and removably secured by the channel*** for temporarily storing the cable, as claimed, and that Al-Ali fails to cure this deficiency.

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Doherty teaches the use of a flexible member for securing a cable, and Al-Ali teaches a non-secured cable. Accordingly, the combination of Doherty and Al-Ali does not lead one of ordinary skill in the art to arrive at the claimed invention of a cable removably disposed in *and removably secured by a channel* for temporarily storing the cable.

Regarding Claim 2 Specifically

The Examiner broadly alleges that Doherty in combination with Al-Ali teaches the claimed invention including a display screen disposed in the housing where *the channel is disposed around at least a portion of a perimeter of the display screen*. Paper 1109, page 3 (emphasis added).

However, the Examiner does not state with specificity where such a teaching or suggestion may be found.

Absent a teaching or suggestion of each and every element of the claimed invention, a prima facie case of obviousness cannot be made.

Regarding Claim 6 Specifically

The Examiner broadly alleges that Doherty in combination with Al-Ali teaches the claimed invention including wherein the cable is received in the channel *in press-fit fashion*. Paper 1109, page 3 (emphasis added).

However, the Examiner does not state with specificity where such a teaching or suggestion may be found.

Absent a teaching or suggestion of each and every element of the claimed invention, a prima facie case of obviousness cannot be made.

Regarding Claim 7 Specifically

The Examiner broadly alleges that Doherty in combination with Al-Ali teaches the claimed invention including wherein the cable includes a resilient material forming an outer surface thereon, the resilient material being *compressed by a side of the channel to secure the cable within the channel*. Paper 1109, page 3 (emphasis added).

However, the Examiner does not state with specificity where such a teaching or suggestion may be found.

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Absent a teaching or suggestion of each and every element of the claimed invention, a prima facie case of obviousness cannot be made.

Regarding Claim 8 Specifically

The Examiner broadly alleges that Doherty in combination with Al-Ali teaches the claimed invention including *a detent formed on a side of the channel*, the detent *releasably retaining the cable in the channel*. Paper 1109, page 3 (emphasis added).

However, the Examiner does not state with specificity where such a teaching or suggestion may be found.

Absent a teaching or suggestion of each and every element of the claimed invention, a prima facie case of obviousness cannot be made.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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